

U.S. Department of Education

**Staff Report
to the
Senior Department Official
on
Recognition Compliance Issues**

RECOMMENDATION PAGE

1. **Agency:** Commission on Accrediting of the Association of Theological Schools (1952/2004)

(The dates provided are the date of initial listing as a recognized agency and the date of the agency's last grant of recognition.)

2. **Action Item:** Petition for Continued Recognition

3. **Current Scope of Recognition:** The accreditation and preaccreditation ("Candidate for Accredited Membership") of theological schools and seminaries, as well as schools or programs that are parts of colleges or universities, in the United States, offering post baccalaureate degrees in professional and academic theological education, including delivery via distance education.

4. **Requested Scope of Recognition:** Same as above

5. **Date of Advisory Committee Meeting:** June, 2011

6. **Staff Recommendation:** Continue the agency's recognition and require the agency to come into compliance within 12 months, and submit a compliance report that demonstrates the agency's compliance with the issues identified below.

7. **Issues or Problems:** The agency must provide evidence of the qualifications and training for its decision-makers and evaluators. [602.15(a)(2)]

The agency must provide documentation demonstrating that its policy/decision-making body and evaluation teams and appeals body include both academic personnel and administrators. [602.15(a)(3)]

The agency must demonstrate that it has both educators and practitioners on its site evaluation teams and decision-making bodies, including the appeals panel. The agency must also demonstrate that its Commission contains practitioners, educators, and public members. [602.15(a)(4)]

The agency must provide evidence of its application of its mechanisms for site evaluators to protect against conflict-of-interest. [(602.15(a)(6)]

The agency must establish records management protocol that contains sufficient specificity to ensure that the agency maintains the specific records required by the criterion. [602.15(b)]

The agency must demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions. [602.16(a)(1)(i)]

The agency must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution or notify the Department of its decision to not seek recognition for its preaccreditation activities. [602.16(a)(2)]

The agency must demonstrate that it has policies establishing clear and definitive timeframes that provide institutions adequate time to respond to the site team report. The agency must also provide documentation demonstrating the application of this requirement. [602.17(d)]

The agency must provide evidence of its effective application of this process to provide all the Commissioners with access to all of the files required under this criterion prior to the decision meeting. [602.17(e)]

The agency must demonstrate that it provides an institution with a detailed written report of its performance the extent to which the degree program is meeting the needs of students including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions. [602.17(f)]

The agency must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy. The

agency must also demonstrate that it makes clear in writing to institutions the requirement that processes must protect student privacy and notify students at their enrollment of any increase in student charges. [602.17(g)]

The agency must demonstrate its application of its enhanced training for visitors, Commissioners, and appeals panel members to control against inconsistent application of Commission standards. [602.18(b)]

The agency must demonstrate that its re-evaluation of its institutions and programs always requires an in-depth self study that is comprehensive to all of the agency's standards. [602.19(a)]

The agency must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that also include measures of student achievement and fiscal information. [602.19(b)]

The agency must demonstrate that it has written requirements and applies effective mechanisms to monitor the overall growth of its accredited institutions. [602.19(c)]

The agency must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth. [602.19(d)]

The agency must make revisions and clarifications in its good cause policies describing the agency's definition of, and what would constitute good cause, including the time limits it would allow the institution to come into compliance. [602.20(b)]

The agency must demonstrate that it has a written plan for the systematic review of its standards that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards. The agency must also demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria [602.21(a)(b)]

The agency must demonstrate that it has and applies policy and procedural guidance for the review and approval of proposed changes of mission or objective, changes in legal status, or for entering into contracts. [602.22 (a)(2)(i-vii)]

The agency must demonstrate its adoption and the application, as

applicable, of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teach-out. [602.22(a)(2)(ix-x)]

The agency must define in its procedures when changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a comprehensive total reevaluation of that institution. [601.22(a)(3)]

The agency must demonstrate that the effective date of substantive change approvals is clearly stated in the approval letter. [602.22(b)]

The agency must provide clear written policies and procedures that require it to conduct site visits to every location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered. [602.22(c)(1)]

The agency must demonstrate that it provides for the opportunity for the general public to provide third party comments [602.23(b)]

The agency must provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review. [602.23(c)]

The agency must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency. [602.23(d)]

The agency must demonstrate that its standards and policies include a process regarding the public notification of inaccurate information and how that will be addressed. [602.23(e)]

The agency must submit evidence of its review and action (effective application) of its teach-out plan review and approval process. [602.24(c)(2)]

The agency must provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative. [602.24(c)(3)]

The agency must demonstrate that its policies require that a teach-out agreement is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. It also must submit evidence of its review and action (effective application) of a teach-out agreement. [602.24(c)(5)]

The agency must demonstrate that its appeal panel is properly constituted, trained, subject to its conflict of interest policies, and is carrying out its role and authority in the manner described under this section of the criteria.

[602.25(f)]

The agency must provide documentation demonstrating that it has policies and/or procedures requiring that it provide public notice of positive accrediting decisions within 30 days of the decision and to demonstrate that it provides notice to the appropriate State licensing agencies, accrediting agencies and the public of its positive accrediting decisions. [602.26(a)]

The agency must provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion (appropriate State licensing agencies, accrediting agencies) of the negative accreditation decisions defined in this requirement within the appropriate time frame. [602.26(b)]

The agency must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action. [602.28(d)]

The agency must provide its policies that require it to share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. [602.28(e)]

EXECUTIVE SUMMARY

PART I: GENERAL INFORMATION ABOUT THE AGENCY

The Association of Theological Schools in the United States and Canada (ATS or Association) began as a conference of theological schools in 1918 and, in 1936, became an association that adopted standards for judging theological educational quality. The ATS Commission on Accrediting (Commission) had in the past conducted its accrediting activities on behalf of the ATS. However, in June 2004, a re-incorporation plan split the Association into two entities, namely the Association of Theological Schools in the United States and Canada and the Commission on Accrediting of the Association of Theological Schools. The result was a clear and distinct separation of the accrediting operation from the primary association ensuring that the accrediting body and its operation remain separate and independent from the ATS.

Recognition History

The U.S. Commissioner of Education first granted recognition to the Commission on Accrediting of the Association of Theological Schools in the United States and Canada (Commission) as a nationally recognized institutional accrediting agency in 1952.

The last full review of the agency occurred at the June 2004 National Advisory Committee on Institutional Quality and Integrity meeting. Subsequently, the Secretary granted continued recognition to ATS for five years and granted an expansion of the agency's scope of recognition to include its evaluation of education delivery by distance education methodology.

PART II: SUMMARY OF FINDINGS

§602.15 Administrative and fiscal responsibilities

The agency must have the administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition.

The agency meets this requirement if the agency demonstrates that--

(a) The agency has--

(2) Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for their roles, regarding the agency's standards, policies, and procedures, to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency's scope, their responsibilities regarding distance education and correspondence education;

The agency's By-laws and Policy Manual describe the criteria and attributes it requires of its Commissioners, Appeal Panel members and site team evaluators. However, it is unclear that the agency has Commissioners, site evaluators and appeal panel members who have experience/expertise in distance and correspondence education.

The agency provided new Commissioner training material documents and a copy of the orientation for new site team evaluators that include training on the agency's standards, and procedures as well as brief guidance on how to evaluate distance education delivery systems. The agency also reports that its Executive Director and Legal Counsel provide an orientation to the appeals panel. However, it is not clear to what extent training is provided on the agency's interpretation of its standards and the review and evaluation of distance education.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has commissioner, site team evaluator and appeal panel members that have experience in distance education and that its decision making bodies and site evaluation teams are trained in interpretation of the agency's standards and particularly the review and evaluation of distance education delivery.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided a list of their decision makers and site team evaluators indicating with a "yes" those with distance education experience. However, the agency did not document the level and/or extent of the education/experience. The agency is in the process of developing training for its evaluators and decision-makers that includes interpretation of its standards and the review and evaluation of distance education.

Staff Determination: The agency does not meet the requirements of this section. It must provide evidence of the qualifications and training for its decision-makers and evaluators.

(3) Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions;

The agency has not demonstrated that it has both academic and administrators on its site evaluation teams nor does the agency provide any documentation verifying the make-up of its appeal panel. The documentation provided by the agency is not sufficient enough for the Department to determine that the agency's site evaluator roster includes academics. It also is not clear to the Department that the agency understands that it must have both academics and administrators on its evaluation teams.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that its site evaluation teams clearly include both academic and administrators on its evaluation teams

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided a list of its commissioners, site evaluators, and appeal panel members that indicate that they have academic personnel and administrators on those bodies. However, the agency did not provide documentation verifying the basis for the designation.

Staff Determination: The agency does not meet the requirements of this section. It must provide documentation demonstrating that its policy/decision-making body and evaluation teams and appeals body include both academic personnel and administrators.

(4) Educators and practitioners on its evaluation, policy, and decision-making bodies, if the agency accredits programs or single-purpose institutions that prepare students for a specific profession;

The agency has not clearly demonstrated that it has both educators and practitioner representatives on its site evaluation teams nor does the agency provide any documentation verifying that the make- up of its appeal panel will include both educators and practitioners. The documentation provided by the agency is not sufficient enough for the Department to determine that the agency's site evaluator roster includes educators.

Also, the agency states that on its Commission, its practitioners are also the agency's public representatives. This does not comply with the intent of the criterion that public members provide a perspective that is separate from the profession.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has both educators and practitioners on its site evaluation teams, appeals panel, The agency must also demonstrate that its Commission contains separate practitioners, educators, and public members.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that it is in the process of changing its policies and procedures regarding the requirements of this section to demonstrate that it has both educators and practitioners (as described in the Guidelines) on its Commission, site-evaluation teams, and appeal panels.

To clarify the agency's understanding of Department staff guidance, if a member's term expires within the 12-month timeframe for achieving compliance, the agency may choose to allow the member to complete the term. However, in accordance with the law, compliance with the criterion must be achieved within 12 months. The agency will not be in compliance with this section until it has provided the appropriate documentation of its revised selection policies and procedures, and specific documentation (membership rosters, resumes, etc. as required) demonstrating that its policy/decision - making body (bodies -- e.g., appeals panels) and evaluation teams include clear representation by educators, practitioners, and public members.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has both educators and practitioners on its site evaluation teams and decision-making bodies, including the appeals panel. The agency must also demonstrate that its Commission contains practitioners, educators, and public members.

(6) Clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, by the agency's--

- (i) Board members;**
 - (ii) Commissioners;**
 - (iii) Evaluation team members;**
 - (iv) Consultants;**
 - (v) Administrative staff; and**
 - (vi) Other agency representatives; and**
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In addressing this criterion, the agency provided its policy that states, “ No officer of the Commission or its professional or administrative staff, consultant, or any other Commission representative, including evaluation team members, shall be interested, directly or indirectly, in any contract relating to operations conducted by the Commission, unless authorized by the concurring vote or written approval of a majority of the Commissioners who do not have a conflict in relation to the relevant transaction or arrangement.”

.In addition, the agency references its procedural requirements that members of the Board of Commissioners must absent themselves from voting or recuses themselves on matters having to do with schools in which they are currently or have been previously employed and schools that they have attended as students. The agency also reports that Commission members sign a conflict of interest statement, however, the agency did not provide evidence of its application of this measure.

The agency also has policies for its staff regarding situations that may compromise or result in conflicts of interest however, it has not demonstrated it has and applies conflict-of interest policies specific to the circumstances of site team evaluators, appeals panel members, consultants or other agency representatives.

Staff Determination; The agency does not meet the requirements of this section. It needs to provide evidence of its conflict of interest policies and their effective application regarding conflict of interest for all groups identified in the criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports its intent to more clearly define and apply its conflict of interest policies in accordance with its own policies and the requirements of this section. The agency provided some evidence of its application of its conflict-of-interest policies via a sample signed conflict-of-interest attestation from Commissioners and a staff member. To document its application of effective conflict-of-interest mechanisms, the agency has developed a comprehensive statement for site visitors that it plans to

implement this fall.

Staff Determination; The agency does not meet the requirements of this section. It needs to provide evidence of its application of its mechanisms for site evaluators to protect against conflict-of-interest.

(b) The agency maintains complete and accurate records of--

(1) Its last full accreditation or preaccreditation reviews of each institution or program, including on-site evaluation team reports, the institution's or program's responses to on-site reports, periodic review reports, any reports of special reviews conducted by the agency between regular reviews, and a copy of the institution's or program's most recent self-study; and

2) All decisions made throughout an institution's or program's affiliation with the agency regarding the accreditation and preaccreditation of any institution or program and substantive changes, including all correspondence that is significantly related to those decisions.

While the agency provided a description of its records management system and an outline of its document management data base, the Department could not verify that the COA records system retains all of records in accordance with the requirements of this section of the criteria.

The agency does not meet the requirements of this section. It needs to demonstrate that it has and applies policies and procedures that clearly identify its retention schedule for the specific records required under this criterion

Analyst Remarks to Response:

In response to the draft analysis, the agency provided its record management policy. However, the agency policy does not clearly specify the accreditation records and their disposition as required by this criterion. The agency's policy addresses the types of record composition such as (hand written, typed or printed hard copy, etc.) and accreditation documentation, and official correspondence; however, this (policy) lacks sufficient specificity to ensure that the agency maintains the specific records required by the criterion.

Staff Determination: The agency does not meet the requirements of this section. It must establish a records management protocol that contains sufficient specificity to ensure that the agency maintains the specific records required by the criterion..

§602.16 Accreditation and preaccreditation standards

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

- (1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:**

(i) Success with respect to student achievement in relation to the institution's mission, which may include different standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.

The COA has documented policies and procedures reflecting a detailed process for the collection and evaluation of student achievement data. The agency's standards require its accredited institutions to have in place a continuous system of program planning and assessment in order to measure its effectiveness related to its program aims and objectives. The system must include provisions for collecting and analyzing data, providing feedback and documenting how the assessments were used to improve instructional quality. The agency's standards require the institutions to maintain, calculate and explained how it utilizes graduation rates, job placement data and ordination rates as applicable. However, it is not clear that the agency has criteria for assessing the quality of the program planning and assessment process or for determining that the level of student achievement is of acceptable quality.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions

Analyst Remarks to Response:

In response to the draft analysis, the agency reports that it will develop and apply criteria for evaluating institutionally-established student achievement standards beginning with its fall 2011 evaluation visits.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has and effectively applies criteria for assessing the quality of the program planning and assessment process and for determining that the level of student achievement is of acceptable quality in its institutions.

(a)(2) The agency's preaccreditation standards, if offered, are appropriately related to the agency's accreditation standards and do not permit the institution or program to hold preaccreditation status for more than five years.

The agency is recognized for and grants preaccreditation (Candidate for Accredited Membership) status to its institutions According to agency policy, preaccreditation, authorizes an institution to begin the self-study process. "Candidacy for accredited status is granted for a period of two years, Candidacy may be extended for one year at a time, but in no case may candidacy extend beyond a total of five years."

Institutions seeking pre-accreditation are required to undertake an internal study of readiness for candidate for accredited status and on completion of its internal study, a Commission staff member will review the study, conduct a staff visit to the school, and prepare a report regarding the school's compliance with the general institutional and degree program standards. The Board of Commissioners will base its decision regarding candidacy on the institution's internal study report, on the report of the staff visit, and on its assessment of the extent to which the institution will be able to meet the agency's accreditation standards.

This process does not comply with the requirements of the criterion for recognized pre-accreditation. Per the criteria for recognition, before an agency reaches a decision to preaccredit an institution, the agency must demonstrate that it requires the institution to prepare an in-depth self study that includes an assessment of quality and the institution's efforts to improve educational quality. The agency must also conduct an on-site review by a site team of peers to obtain sufficient information to determine the extent to which the institution meets agency standards. The agency has not demonstrated that its process includes an in-depth self study and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that it will begin its review of its options regarding recognized preaccreditation.

Staff Determination: The agency does not meet the requirements of this section, because it has not demonstrated effective mechanisms for evaluating compliance with its standards before reaching a decision to preaccredit, which requires the development and review of a self-study and conduct of an onsite evaluation by peers. The agency must demonstrate that its preaccreditation process includes an in-depth self study that includes an assessment of educational quality and continuing efforts to improve educational quality and an on-site review by a team of peers prior to the Commission making a decision to preaccredit an institution or notify the Department of its decision to not seek recognition for its preaccreditation activities.

§602.17 Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it--

(d) Allows the institution or program the opportunity to respond in writing to the report of the on-site review;

The agency' site review process and procedures require it to provide its institutions the opportunity to review and respond to the site visit report and to correct any factual errors and provide any additional information. However the agency's procedures do not identify any timeframes that will ensure institutions adequate time for thoughtful response. The agency states that the window for response is "normally" more than 30 days, which is commonly accepted practice. However, the agency states it provides institutions a minimum of 5 days to correct factual errors on the team report and the sample letter inviting agency response to the site team report provided only 17 calendar days (including Christmas and New Years Day holidays) . The agency needs to establish clear and definitive timeframes that provide instructions adequate time to respond to the site team report.

Staff determination: The agency does not meet the requirement of this section. It must establish clear and definitive timeframes that provide institutions adequate time to respond to the site team report.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will review possible revisions to its policies and procedures for complying with the need to establish clear and definitive timeframes that provide institutions adequate time to respond to the site team report.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that it has policies establishing clear and definitive timeframes that provide institutions adequate time to respond to the site team report. The agency must also provide documentation demonstrating the application of this requirement.

(e) Conducts its own analysis of the self-study and supporting documentation furnished by the institution or program, the report of the on-site review, the institution's or program's response to the report, and any other appropriate information from other sources to determine whether the institution or program complies with the agency's standards; and

The COA decision-making process uses workgroups of Commissioners to consider the materials available. Every Commissioner is provided with institutional reports and responses and evaluation committee reports for review prior to the Board meeting. However, only two commissioners are provided the institutional self study. It is not clear how the COA ensures that all Commissioners have access and opportunity to view the institution's self study.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides all Commissioners with access and opportunity to view the institution's self study.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it is beginning to place self study documents on a protected website allowing all its commissioners to access institutional information. However, the agency did not provide sufficient information such as a description of the mechanism, procedural instructions for accessing the documents, or timelines for making the information available to the Commissioners etc, to demonstrate the effectiveness of the process or that it ensures that all the Commissioners have access to all of the files required under this criterion prior to the decision meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide evidence of its effective application of this process to provide all the Commissioners with access to all of the files required under this criterion prior to the decision meeting.

(f) Provides the institution or program with a detailed written report that assesses--

- (1) The institution's or program's compliance with the agency's standards, including areas needing improvement; and**
- (2) The institution's or program's performance with respect to student achievement;**

and

The agency has written procedures for documenting a detailed assessment and reporting of its institution's compliance with its standards including their success with respect to student achievement. The agency uses the site team report to and the decision letter to communicate the extent to which an institution meets the agency's standards. The documents provide a comprehensive assessment of an institution's compliance and non-compliance with agency requirements. The agency provided documentation demonstrating the application of this requirement.

However, there is no evidence that the agency provides an institution with a detailed assessment of a program's performance with respect to student achievement. While the agency standards require that the institution shall maintain an ongoing evaluation by which it determines the extent to which the degree program is meeting the needs of students and the institution's overall goals for the program, including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions, the agency documents do not reveal any assessment of student performance in these areas.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution with a detailed written report of its performance the extent to which the degree program is meeting the needs of students including measures such as the percentage of students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will need to prepare its evaluation committees to provide enhanced evaluations of student achievement required by this section of the criteria and plans to implement training in Fall 2011.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides an institution with a detailed written report of its performance the addresses the extent to which the degree program is meeting the needs of students including measures such as the percentage of

students who complete the program and the percentage of graduates who find placement appropriate to their vocational intentions.

(g) Requires institutions that offer distance education or correspondence education to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. The agency meets this requirement if it--

(1) Requires institutions to verify the identity of a student who participates in class or coursework by using, at the option of the institution, methods such as--
(i) A secure login and pass code;

(ii) Proctored examinations; and

(iii) New or other technologies and practices that are effective in verifying student identity; and

(2) Makes clear in writing that institutions must use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

The agency has provided evidence that it has inserted into its substantive change approval requirements the language of this criterion-- that the institution is to have a process for establishing the identity of students in distance education programs. However, this does not provide evidence that the agency reviews this requirement during each comprehensive review for accreditation. The agency provided no evidence that it has incorporated the requirement of this criterion into its accreditation evaluation process; nor has it demonstrated effective application of this requirement.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy; and include notification to students at their enrollment of any increase in student charges.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided a copy of the Mandatory Standard Checklist which will be used by its site-evaluation team members beginning in fall 2011 to evaluate the institution's compliance with agency standards. The documentation provided by the agency does not sufficiently address the requirements of this criterion as it has provided no insight into the agency's criteria for determining compliance. Nor has the agency provided evidence of complying with the criterion requirement that it make clear in writing that institutions must notify students of any projected additional student charges associated with the verification of student identity at the time of enrollment or registration.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it requires and assesses (during accreditation reviews) that institutions have processes in place to verify the identity of students enrolled in distance education and that the student is the same person who takes and completes the course or program; that the processes used by institutions are effective in verifying student identity while at the same time protecting student privacy. The agency must also demonstrate that it makes clear in writing to institutions the requirement that processes must protect student privacy and notify students at their enrollment of any increase in student charges.

§602.18 Ensuring consistency in decision-making

The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education or correspondence education, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency--

(b) Has effective controls against the inconsistent application of the agency's standards;

The agency has demonstrated that it has and applies effective controls against the inconsistent application of its standards, to include: written standards, policies, and procedures that are sufficiently clear and comprehensive; guidance provided at accreditation workshops; standardized self-study and on-site review documents; and review by evaluators, review committee members, and commission members. What is not clear is that the evaluators, review committee members, commission members, and appeals panel are qualified and trained to review distance education, which is a critical component of the agency's controls against the inconsistent application of standards.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that its evaluators, review committee members, commission

members, and appeals panel are qualified and trained to review distance education programs as a control against the inconsistent application of the agency's standards.

Analyst Remarks to Response:

In response to the staff's draft report ATS reports that it recognizes the need for and that it is perusing revisions in its current training and orientation programs to strengthen its (consistent) application of its standards.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate its application of its enhanced training for visitors, Commissioners, and appeals panel members to control against inconsistent application of Commission standards.

§602.19 Monitoring and reevaluation of accredited institutions and programs.

(a) The agency must reevaluate, at regularly established intervals, the institutions or programs it has accredited or preaccredited.

The agency provided its policies that require reevaluation of its institutions at intervals not to exceed 10 years.

The policies require institutions to conduct a self study and to host an on-site evaluation team. The agency provided documentation supporting the reevaluation process and has demonstrated application of this requirement in Exhibits 38(a-b) and 39 (a-b).

However, it is not clear that the agency always requires an in-depth self study that is comprehensive to all of the agency's standards. The agency policy states, "...by permission of the Board through its staff, a design that focuses on particular issues or concerns is also possible for schools conducting self-studies for reaffirmation of accreditation." The agency needs to provide additional explanation of this policy and its application of it.

Staff determination: The agency does not meet the requirements of this section. It needs to provide additional explanation of its policy to allow a self study design that focuses on particular issues or concerns is also possible for schools conducting self-studies for reaffirmation of accreditation and its application of it.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it will address the Departments concern regarding "a special design for a self-study that allows an institution to focus on identified areas of need" at it June 2012 meeting..

Staff determination: The agency does not meet the requirements of this section. It needs to demonstrate that its re-evaluation of its institutions and programs always requires an in-depth self study that is comprehensive to all of the agency's standards.

(b) The agency must demonstrate it has, and effectively applies, a set of monitoring and evaluation approaches that enables the agency to identify problems with an institution's or program's continued compliance with agency standards and that takes into account institutional or program strengths and stability. These approaches must include periodic reports, and collection and analysis of key data and indicators, identified by the agency, including, but not limited to, fiscal information and measures of student achievement, consistent with the provisions of §602.16(f). This provision does not require institutions or programs to provide annual reports on each specific accreditation criterion.

The agency has not demonstrated that it has established a set of monitoring and evaluation approaches sufficient to comply with this requirement.

The agency noted its use of its substantive change processes and complaint processes as components of its monitoring activities and these along with focused visits are pieces of a set of monitoring and evaluation approaches. These components are supported by written policy requirements in the COA procedures document.

However, the criterion requires that recognized accreditors also have in place mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that includes also includes measures of student achievement and fiscal information. The agency has not discussed having, in place, this type of mechanism. While the agency provided a template of a data collection tool; it provided no evidence of its application of the template nor did it provide evidence of its review of data sets as required by the criteria for recognition against triggers/flags that would initiate further monitoring action on the part of the COA. Further, it has not provided evidence of policy/procedures that directs such activity.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and

evidence of the agency's collection and analysis of key data and indicators that includes also includes measures of student achievement and fiscal information.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reported that the Board of Commissioners, in conjunction with Commission staff, will review the Annual Report Form to determine how to enhance its ability to capture meaningful data related to student achievement and to develop means to incorporate the data into a practice of ongoing institutional monitoring. The agency reports that it also collects financial data and enrollment data.

What is not evident is that the agency has protocols and mechanisms in place to assess the data it collects and make meaningful determinations of continued compliance/noncompliance with agency standards. .The agency needs to demonstrate how it's data collection activity is part of a mechanism to (proactively) identify problems with an institution's continuing compliance with agency standards. The Department expects that an agency's mechanisms will include the use of triggers or flags that alert the agency to compliance issues.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and effectively applies mechanisms to (proactively) identify problems with an institution's continuing compliance with agency standards; and these mechanisms must include periodic reports and evidence of the agency's collection and analysis of key data and indicators that also include measures of student achievement and fiscal information.

(c) Each agency must monitor overall growth of the institutions or programs it accredits and, at least annually, collect headcount enrollment data from those institutions or programs.

The agency provided no evidence of a written policy requirement for its monitoring of overall growth of institutions it accredits.

While the agency provided an annual report form "template" of enrollment data; it provided no evidence of its implementation of the enrollment data collection.

The agency also provided an enrollment data report of enrollment increases for 2010. The report identified 10 institutions with increases that exceed 25%. The agency provided no insight into its assessment of this data except to say that "enrollment patterns are reasonable given the information provided and discussions with school representatives when deemed necessary." As such it is not sufficient to confirm that the agency has an effective mechanism for monitoring overall growth.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective

mechanisms to monitor the overall growth of its accredited institutions.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will give attention to improving the annual report form to create effective mechanisms to monitor overall growth data, and that an enhanced monitoring will be in place during 2011-2012 academic year.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the overall growth of its accredited institutions.

(d) Institutional accrediting agencies must monitor the growth of programs at institutions experiencing significant enrollment growth, as reasonably defined by the agency.

The agency identifies that a 25% increase is the agency's benchmark for significant increases in enrollment. The agency provided a template form that requests institutions to submit data by program. However, there is no evidence of the implementation of this data collection.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that the collection and analysis of enrollment data will begin in the fall of 2011.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it has written requirements and applies effective mechanisms to monitor the growth of programs at its accredited institutions that exceed its definition of significant enrollment growth.

§602.20 Enforcement of standards

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

The COA does have written policies and procedures that address extensions for good cause. Specifically, the agency policy states, "In certain cases and for demonstrated good cause, the Board of Commissioners may extend by one year the period an institution has to demonstrate that the conditions to remove probation have been met. In no case shall extensions for good cause exceed two years."

The agency's policy first states that the COA may grant an extension for 1 year. But in the next sentence says that extensions will not exceed 2 years. This infers that the agency may grant multiple extensions which is not compliant with the requirement of the criterion that extensions are not used routinely, repeatedly, or as a mechanism to avoid initiating an adverse action. Neither has the agency provided any policy or other documentation to evidence what types of cases or situations would compel the COA to effect an extension "for good cause".

Staff determination: The agency does not meet the requirements of this section. It must clarify its application of extensions for good cause and demonstrate its compliant application of its policies.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will develop and implement practice and to make more clear the circumstances and limitation that the Commission applies to a good cause extension. The agency reports that its revised good cause policies would be adopted in February 2012.

Staff Determination: The agency does not meet the requirements of this section. The ATS must make revisions and clarifications in its good cause policies describing the agency's definition of, and what would constitute good cause, including the time limits it would allow the institution to come into compliance.

§602.21 Review of standards.

(a) The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.

(b) The agency determines the specific procedures it follows in evaluating its standards, but the agency must ensure that its program of review--

- (1) Is comprehensive;**
- (2) Occurs at regular, yet reasonable, intervals or on an ongoing basis;**
- (3) Examines each of the agency's standards and the standards as a whole; and**
- (4) Involves all of the agency's relevant constituencies in the**

review and affords them a meaningful opportunity to provide input into the review.

The COA reports that ATS Commission on Accrediting Standards were last comprehensively revised in 1996. Following the 2006 Biennial Meeting, the Board of Commissioners determined to undertake a two-staged review of the standards. The process began following the 2008 Biennial Meeting and resulting in recommendations at the 2010 and 2012 Biennial Meetings. The agency does have written policies that require it to conduct a review of its standards after every comprehensive evaluation of its schools and as a whole every five years. However, it did not provide documentation of those process/procedures or evidence that it involves all of the agency's relevant internal and external constituencies in the review and affords them a meaningful opportunity to provide input into the review.

Staff determination: The agency does not meet the requirements of this section. It needs to demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria.

Analyst Remarks to Response:

The agency reports that it will "resume its practice of collecting data related to the effectiveness of the standards to guide institutional improvement once the revision process is completed in June 2012". However, the agency did not provide a written policy that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards.

In response to the staff's draft analysis the agency provided 3 sample Standards Survey forms from site team members. The Department was not able to verify when the actual review took place nor is there evidence of the agency's application of these survey results in a review of the agency standards. Documentation of those process/procedures and evidence that it involves all of the agency's relevant internal and external constituencies in the review and affords them a meaningful opportunity to provide input into the review is essential to a compliant review process.

Staff determination: The agency does not meet the requirements of this section. It must demonstrate that it has a written plan for the systematic review of its standards that directs its systematic review and assessment of individual standards continuously and as a whole, or provided a copy of a completed systematic review of standards. The agency must also demonstrate that it has conducted systematic reviews of its standards that comply with the requirements of this section of the criteria.

§602.22 Substantive change.

(2) The agency's definition of substantive change includes at least the following types of change:

(i) Any change in the established mission or objectives of the institution.

(ii) Any change in the legal status, form of control, or ownership of the institution.

(iii) The addition of courses or programs that represent a significant departure from the existing offerings of educational programs, or method of delivery, from those that were offered when the agency last evaluated the institution.

(iv) The addition of programs of study at a degree or credential level different from that which is included in the institution's current accreditation or preaccreditation.

(v) A change from clock hours to credit hours.

(vi) A substantial increase in the number of clock or credit hours awarded for successful completion of a program.

(vii) If the agency's accreditation of an institution enables the institution to seek eligibility to participate in title IV, HEA programs, the entering into a contract under which an institution or organization not certified to participate in the title IV, HEA programs offers more than 25 percent of one or more of the accredited institution's educational programs.

The agency provided its policies addressing the types of and definitions of substantive changes that it requires prior commission approval. The agency does not have policy and procedural guidance for its institutions that address all of the types of changes required by this criterion. Specifically, the agency does not have substantive change policies and procedures for change of mission or objective, changes in legal status, form of control or ownership, or contracts.

Staff determination: The agency does not meet the requirements of this section. It needs to provide evidence of having policy and procedural guidance for all of the types of substantive changes identified in this criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided its policies addressing the types of and definitions of substantive changes that require prior commission approval. The agency also reports that it "does not have a procedure, nor the board have a policy addressing the specific requirement of 602.22(a)(2)(vii)", and that "the board will consider the best means to address this requirement and either take action through adopting a new board policy or recommend a change to the COA Procedures to the Commission membership" with final action by June 2012. The agency has not addressed the Department's concern that the agency does not have substantive change policies and procedures for the review and approval of proposed changes of mission or objective, or changes in legal status.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has and applies policy and procedural guidance for the review and approval of proposed changes of mission or objective, changes in legal status, and for entering into contracts.

(ix) The acquisition of any other institution or any program or location of another institution.

(x) The addition of a permanent location at a site at which the institution is conducting a teach-out for students of another institution that has ceased operating before all students have completed their program of study.

The agency's reports that it considers the substantive changes identified under this criterion to be "specific cases" of additional locations/branch campuses. . However, the agency chooses to categorize them, the situations identified in this criterion are unique and different from the establishment of an additional location by the accredited institution in that they include an additional institution. The agency is required to have policy and procedures for the request, review, and approval of substantive changes specific to these situations.

Staff determination: The agency does not meet the requirements of this section. It must have written policies or procedures or criteria for the request, review, and approval of substantive changes specific to these situations. It must provide documentation demonstrating the application of its review and approval of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teachout.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has not had the opportunity to address the situations in the requirements of this section, and will consider policies and procedures to address the criteria by June 2012.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate its adoption and the application, as applicable, of a review and approval process of substantive change requests involving the acquisition of other institutions, programs, or locations of another institution or the addition of a permanent site for purposes of a teach-out.

(3) The agency's substantive change policy must define when the changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a new comprehensive evaluation of that institution.

The agency did not provide any documentation demonstrating that it has identified under what conditions or circumstances of change it will require a full and comprehensive evaluation of the institution.

Staff Determination: The agency does not meet the requirements of this section. It needs to identify what conditions or circumstances of change it will require a new evaluation. The agency also needs to document its application of this requirement.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has not identified what circumstances of substantive change will require a new evaluation nor does the agency have policies and procedures in place addressing the requirements of this section. It reports that the Board will develop the criteria required by this section .

Staff Determination: The agency does not meet the requirements for this section. ATS must define in its procedures when changes made or proposed by an institution are or would be sufficiently extensive to require the agency to conduct a comprehensive total reevaluation of that institution.

(b) The agency may determine the procedures it uses to grant prior approval of the substantive change. However, these procedures must specify an effective date, which is not retroactive, on which the change is included in the program's or institution's accreditation. An agency may designate the date of a change in ownership as the effective date of its approval of that substantive change if the accreditation decision is made within 30 days of the change in ownership. Except as provided in paragraph (c) of this section, these procedures may, but need not, require a visit by the agency.

It is not clear to the Department that the agency has clear policies that prohibit it from making retroactive approvals of substantive changes.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide clear policies that prohibit it from making retroactive approvals of substantive changes and demonstrate that it effectively adheres to its policies.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided its revised policy that clarifies the effective date of substantive changes approved by the Commission. However, the agency's documentation (letters to institutions approving substantive change requests) does not make clear to the recipient or others that the effective date of the approval and inclusion in the grant of accreditation is the date of the letter. Clarity of the effective date written into the approval letter is necessary as it impacts financial student aid eligibility and has other legal ramifications.

Staff Determination: The agency does not meet the requirements of this section. It needs to demonstrate that the effective date of substantive change approvals is clearly stated in the approval letter.

(c)(1) A visit, within six months, to each additional location the institution establishes, if the institution--

- (i) Has a total of three or fewer additional locations;**
- (ii) Has not demonstrated, to the agency's satisfaction, that it has a proven record of effective educational oversight of additional locations; or**
- (iii) Has been placed on warning, probation, or show cause by the agency or is subject to some limitation by the agency on its accreditation or preaccreditation status;**

The agency's policies regarding additional locations are not clear in establishing that all sites (not limited to degree programs) where at least 50 % of a program is offered must have a site visit a visit within 6 months of the establishment of the additional location to determine that the site has the personnel, resources, and facilities that the institution claimed in the application. While the agency chooses to conduct a site visit at the time the application is submitted (to determine the institutions administrative and fiscal capacity), this does not satisfy the requirement that the agency conduct a site visit to the additional location within 6 months of the establishment of the locations. It is not clear how the agency can

verify the existence of the additional location's resources (before the location is operational).

The agency did provide some evidence of the results of its review of the fiscal and administrative capacity of a request to establish an additional location and a site team report from an on-site review to verify the resources of an additional location.

Staff determination: The agency does not meet the requirements of this section. The agency must establish clear written policies and procedures that require it to conduct site visits to every additional location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it will develop revised policies and procedures to address the requirements of this section by its June 2012 Commission meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide clear written policies and procedures that require it to conduct site visits within six months to every location established under a substantive change request where 50% or more of a program (with no delimitation) will be offered.

§602.23 Operating procedures all agencies must have.

(b) In providing public notice that an institution or program subject to its jurisdiction is being considered for accreditation or preaccreditation, the agency must provide an opportunity for third-party comment concerning the institution's or program's qualifications for accreditation or preaccreditation. At the agency's discretion, third-party comment may be received either in writing or at a public hearing, or both.

The agency written policies/procedures for accreditation require institutions it to notify all of its constituencies through published notices of the opportunity to provide third-party comments on institutions being considered for accreditation. The agency did not provide any evidence that it provides more specific guidance to its institutions on its expectations for making notice or receiving comments. Neither did the agency provide any evidence of its institutions adhering to this a requirement.

The agency also provided documentation that it publishes a notice in the ATS publication inviting any member school to submit third-party comments on any school scheduled to receive a visit and be reviewed at the next Commission

meeting. This limited audience of this notice does not fully address the requirements of the criterion that is to provide public notice and opportunity for 3rd party comment.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides for the opportunity for the general public to provide third party comments.

Analyst Remarks to Response:

In response to the staff's draft analysis, ATS reports that by fall 2011, it will develop policies and guidelines for providing an opportunity for the general public to provide third-party comments which will include web-based notification of pending accreditation reviews and means for submitting third party comments.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it provides for the opportunity for the general public to provide third party comments.

(c) The accrediting agency must--

(1) Review in a timely, fair, and equitable manner any complaint it receives against an accredited institution or program that is related to the agency's standards or procedures. The agency may not complete its review and make a decision regarding a complaint unless, in accordance with published procedures, it ensures that the institution or program has sufficient opportunity to provide a response to the complaint;

(2) Take follow-up action, as necessary, including enforcement action, if necessary, based on the results of its review; and

(3) Review in a timely, fair, and equitable manner, and apply unbiased judgment to, any complaints against itself and take follow-up action, as appropriate, based on the results of its review.

The agency provided its complaint policies demonstrating that it has a sufficient complaint process in place. However the agency did not provide any documentation demonstrating its review process or application of the requirements of this section.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review.

Analyst Remarks to Response:

In response to the staff's draft analysis, the ATS provided its revised complaint policies and Complaint Procedures Checklist which is used by the agency to track the application and review complaint process. However, this is insufficient to demonstrate the agency's review and resolution of complaints. The Department acknowledges the agency's concern for confidentiality, and requests that the agency provide a complete document package (redacted) of a complaint it received that pertains to ATS issues in the realm of the agency standards and actions in accordance with its complaint policy.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its effective application of its complaint policy demonstrating that it reviews complaints in a timely and equitable manner and takes follow-up action as necessary, based on the results of its review.

(d) If an institution or program elects to make a public disclosure of its accreditation or preaccreditation status, the agency must ensure that the institution or program discloses that status accurately, including the specific academic or instructional programs covered by that status and the name, address, and telephone number of the agency.

The agency's public disclosure policies and procedures are comprehensive, clear and specific to the requirements of this section. The agency's documentation however, does not reflect the language required by the agency.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency reports that it has revised its Mandatory Standards Checklist to reflect the review of the public disclosures of the institution's accreditation status, however this could not be verified in the documents provided.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it reviews the public disclosures of accreditation status made by its accredited institutions and programs for accuracy to include the name, address, and telephone number of the agency.

(e) The accrediting agency must provide for the public correction of incorrect or misleading information an accredited or preaccredited institution or program releases about—

(1) The accreditation or preaccreditation status of the institution or program;

(2) The contents of reports of on-site reviews; and

(3) The agency's accrediting or preaccrediting actions with respect to the institution or program.

While the agency policies state what the agency “may” do if it finds that an institution has released inaccurate or distorted information. It’s policies do not make it unequivocally clear that the agency will take action to correct the inaccurate information. Also, the agency has provided no evidence of its having taken action to correct misleading information.

Staff Determination: The agency does not meet the requirements of this section. It needs to amend its policies to make it clear that it will take action to correct false or misleading information and provide documentation of its effective correction of false or misleading information.

Analyst Remarks to Response:

In response to the Staff’s draft analysis the agency reports that it will address the requirements for this section at its February 2012 meeting.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that its standards and policies include a process regarding the public notification of inaccurate information and how that will be addressed.

§602.24 Additional procedures certain institutional accreditors must have.

If the agency is an institutional accrediting agency and its accreditation or preaccreditation enables those institutions to obtain eligibility to participate in Title IV, HEA programs, the agency must demonstrate that it has established and uses all of the following procedures:

- (2) The agency must evaluate the teach-out plan to ensure it provides for the equitable treatment of students under criteria established by the agency, specifies additional charges, if any, and provides for notification to the students of any additional charges.**
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The agency's response does not sufficiently address the requirements of this section of the criteria.

Under this section of the criteria the agency is expected to have policies, procedures, and evaluative criteria by which it requires, reviews, and approves teach-out plans that describe adequate courses of action (plans) for providing for the equitable treatment of students under criteria established by the agency, that specifies additional charges, and provides plans for notifying students of the charges, if any.

Staff Determination: The agency does not meet the requirements of this section. It needs to document that it has policies, procedures and criteria by which it will assess and determine that the teach-out plan provides for the equitable treatment of students and on what basis it determines, for example, that the teach-out plans for notifications and additional charges are appropriate and reasonable. It also needs to demonstrate effective application of its teach out plan review and approval process.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency has provided documentation of its revised policies and procedures for the submission and evaluation of teach-out plans and teach-out agreements. The agency's guidance to institutions is clear in outlining specifically the information and documentation required from the institution to include information on students; student records; tuition and refunds; sample notifications; delivery of education and services; and additional charges if any. The specificity of the information and documentation make it clear what are the agency's criteria for approving a teach-out plan.

The agency reports that it is currently reviewing a teach-out plan and agreement under its revised policies and procedures.

Staff Determination: The agency does not meet the requirements of this section. It needs to submit evidence of its review and action (effective application) of its teach-out plan review and approval process.

(3) If the agency approves a teach-out plan that includes a program that is accredited by another recognized accrediting agency, it must notify that accrediting agency of its approval.

The agency's policies require it to notify another accrediting agency should the agency approve a teach-out-plan that includes a institution that is accredited by another agency. While the agency reports that it has applied this requirement it has not provided any documentation demonstrating it application.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative.

Analyst Remarks to Response:

ATS reports that it is currently reviewing a teach-out plan and agreement. While it did not specify that the teach-out includes an institution accredited by another accrediting agency, the agency did indicate in its initial narrative that it has applied the requirement.

Staff determination: The agency does not meet the requirements of this section. It needs to provide documentation of its notification to another accrediting agency that it has approved a teach-out plan, as noted in the agency's narrative.

(5) The agency must require an institution it accredits or preaccredits that enters into a teach-out agreement, either on its own or at the request of the agency, with another institution to submit that teach-out agreement to the agency for approval. The agency may approve the teach-out agreement only if the agreement is between institutions that are accredited or preaccredited by a nationally recognized accrediting agency, is consistent with applicable standards and regulations, and provides for the equitable treatment of students by ensuring that--

(i) The teach-out institution has the necessary experience, resources, and support services to--

(A) Provide an educational program that is of acceptable quality and reasonably similar in content, structure, and scheduling to that provided by the institution that is ceasing operations either entirely or at one of its locations; and

(B) Remain stable, carry out its mission, and meet all obligations to existing students; and

(ii) The teach-out institution demonstrates that it can provide students access to the program and services without requiring them to move or travel substantial distances and that it will provide students with information about additional charges, if any.

The COA does not have policies, procedures, and criteria for reviewing and approving teach-out agreements as per the requirements of this section of the criteria; nor has it demonstrated its application of the requirements of this criterion.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide evidence of written policies, procedures and criteria for

agency review and approval of teach-out agreements that address the requirements under this section of the criteria. Specifically, the agency is to have procedures and criteria for assessing that the teach-out is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. Additionally the agency is to assess the resources, experience, and support services of the teach-out institution and its ability to provide a program of acceptable quality and which is reasonably similar in content, structure, and scheduling and is stable in that it can carry out its mission and meet all obligations to existing students and provide a program to teach-out students without requiring substantial travel or additional charges. The agency needs to provide evidence of its effective application of these policies and procedures.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency provided its revised policies and process for teach-out agreements. However, the agency policy is not clear in requiring that the teach-out agreement is to be only between institutions that are accredited or preaccredited by a nationally recognized accrediting agency.

The agency policy guidance defines the difference between a teach-out plan and a teach-out agreement. While the guidance appears sufficient in describing the agency's expectations for evaluating a teach-out plan, it is less clear how the agency will assess a teach-out agreement. Specifically, it is also not clear how the agency will evaluate that the teach-out institution has the resources to remain stable, carry out its mission and meet all obligations to existing students

The agency has not provided evidence of its review of a teach-out agreement but has indicated that it is in process of evaluating a teach-out petition.

Staff Determination: The agency does not meet the requirements of this section. It must demonstrate that its policies require that a teach-out agreement is between institutions that are accredited by nationally recognized accreditors and are consistent with applicable standards and regulations. It also must submit evidence of its review and action (effective application) of a teach-out agreement.

§602.25 Due process

(f) Provides an opportunity, upon written request of an institution or program, for the institution or program to appeal any adverse action prior to the action becoming final.

(1) The appeal must take place at a hearing before an appeals panel that--

(i) May not include current members of the agency's decision-making body that took the initial adverse action;

- (ii) Is subject to a conflict of interest policy;**
 - (iii) Does not serve only an advisory or procedural role, and has and uses the authority to make the following decisions: to affirm, amend, or reverse adverse actions of the original decision-making body; and**
 - (iv) Affirms, amends, reverses, or remands the adverse action. A decision to affirm, amend, or reverse the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. In a decision to remand the adverse action to the original decision-making body for further consideration, the appeals panel must identify specific issues that the original decision-making body must address. In a decision that is implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the appeals panel's decisions or instructions.**
- (2) The agency must recognize the right of the institution or program to employ counsel to represent the institution or program during its appeal, including to make any presentation that the agency permits the institution or program to make on its own during the appeal.**
-

The agency has policies that define the composition of the appeal panel and term limits. The policy states , "... composed of five persons who are former Commissioners or former Directors of ATS, at least one of whom shall have been a Public Commissioner or Public Director. Appeals Panel members shall be elected by the Members and shall serve two-year terms. A person who has served for two consecutive two-year terms is not eligible for re-election until he or she has not served for two years." However, the policy does not make it clear that the Appeal Panel meets the requirement that an appeal panel include academics, administrators, educator, practitioners and public members depending on the nature of the appeal. Also, the agency provided no evidence of its application of an effective mechanism to ensure against conflicts of interest by the appeal panel.

The agency provided no evidence of written policies and their effective application to demonstrate the role and authority of the appeal panel under the requirements of this criterion and the agency's training of the panel on its standards, role and responsibilities.

The agency has written policies that address the right of the institution to legal counsel.

Staff determination: The agency does not meet the requirements of this section. It must establish policies and procedures and demonstrate that its appeal panel is properly constituted, trained, subject to conflict of interest policies, and is carrying out its role and authority in the manner described under 602.25 (f) (1) and (2).

Analyst Remarks to Response:

In response to the staff's draft analysis the agency clarified its process of training its appeals panel members on its standards, procedures and its conflict-of-interest policy. Agency training is scheduled for February 2012. The agency also provided a list of its current appeal panel membership, reporting that its public representative is a non-governmental employee. However, the Department is still concerned with the process of selecting and vetting its appeal panel members. The agency's policies are not clear on how the agency does that and how it expects the appeal panel to carry out its specific role under the authority in the manner described under 602.25(f)(1)(2).

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that its appeal panel is properly constituted, trained, subject to its conflict of interest policies, and is carrying out its role and authority in the manner described under this section of the criteria.

§602.26 Notification of accrediting decisions

The agency must demonstrate that it has established and follows written procedures requiring it to provide written notice of its accrediting decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public. The agency meets this requirement if the agency, following its written procedures--

(a) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, the appropriate accrediting agencies, and the public no later than 30 days after it makes the decision:

(1) A decision to award initial accreditation or preaccreditation to an institution or program.

(2) A decision to renew an institution's or program's accreditation or preaccreditation;

The agency policies require it to notify all of the entities listed in the criterion of the accreditation decisions required by this section in the appropriate time frame. However the agency did not provide any documentation verifying that it notified those required by this section of the criteria, thus demonstrating the application of this requirement.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of this requirement.

Analyst Remarks to Response:

In response to the staff's draft analysis, the agency provided documents titled REPORT TO THE US DEPARTMENT OF EDUCATION, ACTIONS TAKEN AT THE FEBRUARY 2010 MEETING (and JUNE 2010) , BOARD OF COMMISSIONERS . However, these documents are insufficient to serve as examples of notifications sent by the agency to all of the entities required by this criterion. While the Department may confirm receipt of the notices to the Department, there is no evidence that the agency provided the notices to the appropriate State licensing agencies, accrediting agencies and the public. Also, further review of the agency policies reveals that the agency policies do not include the requirement that the agency provide written notice of its positive accreditation decisions to the public.

Staff Determination: The agency does not meet the requirements of this section. It needs to provide documentation demonstrating that it has policies and/or procedures requiring that it provide public notice of positive accrediting decisions within 30 days of the decision and to demonstrate that it provides notice to the appropriate State licensing agencies, accrediting agencies and the public of its positive accrediting decisions.

(b) Provides written notice of the following types of decisions to the Secretary, the appropriate State licensing or authorizing agency, and the appropriate accrediting agencies at the same time it notifies the institution or program of the decision, but no later than 30 days after it reaches the decision:

(1) A final decision to place an institution or program on probation or an equivalent status.

(2) A final decision to deny, withdraw, suspend, revoke, or terminate the accreditation or preaccreditation of an institution or program;

(3) A final decision to take any other adverse action, as defined by the agency, not listed in paragraph (b)(2) of this section;

The agency's policies require it to notify all of the entities listed in the criterion of the negative accreditation decisions define in this requirement within the appropriate time frame. However, the agency failed to provide any documentation verifying the application of the requirements of this section.

Staff determination; The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion of the negative accreditation decisions define in this requirement within the appropriate time frame.

Analyst Remarks to Response:

The agency provided the same documentation as provided in the previous section. However, these documents are insufficient to serve as examples of notifications sent by the agency to all of the entities required by this criterion. While the Department may confirm receipt of the notices to the Department, there is no evidence that the agency provided the notices to the appropriate State licensing agencies, accrediting agencies, as required.

Staff determination; The agency does not meet the requirements of this section. It needs to provide documentation demonstrating the application of the requirement to notify all of the entities listed in the criterion (appropriate State licensing agencies, accrediting agencies) of the negative accreditation decisions defined in this requirement within the appropriate time frame.

§602.28 Regard for decisions of States and other accrediting agencies.

(d) If the agency learns that an institution it accredits or preaccredits, or an institution that offers a program it accredits or preaccredits, is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the agency must promptly review its accreditation or preaccreditation of the institution or program to determine if it should also take adverse action or place the institution or program on probation or show cause.

While the agency does have a policy that it will initiate a review of an institution or program that is subject to an adverse action by another agency, however, the policy does not provide sufficient information regarding the agency's approach to its review to ascertain that its review is prompt and thorough in concluding any impact pertaining to COA's accreditation. The agency provided no evidence of any review to support its effective application of the policy.

Staff determination: The agency does not meet the requirement of this section. It must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it has not had a instance to apply the requirements of this section. However, the Department would expect the agency policies to include a mechanism to promptly review its accreditation of an institution that is the subject of adverse action, or placed on probation or equivalent status, by another recognized accreditor.

Staff Determination: The agency does not meet the requirements of this section. The agency must demonstrate that it has an effective mechanism in place to review its accredited entity in those situations where the program or the institution that houses the accredited program is also the subject of an adverse action.

(e) The agency must, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation or preaccreditation status of an institution or program and any adverse actions it has taken against an accredited or preaccredited institution or program.

The agency reports that it's policy under 10.5 of its Policy Manual addresses this requirement. However, this policy is directed to notification of board actions regarding Board actions concerning dually accredited institutions and is not the focus of this criterion. . Under this requirement, the agency is required to have policy and procedures for sharing information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. The documents provided are not sufficient evidence of the agency's compliance with this criterion as they do not demonstrate the agency's response to information requests from other accrediting or state agencies.

Staff determination; The agency does not meet the requirements of this section. It must demonstrate that it has policies that require it to for share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting agency for that information. It must also demonstrate its application of policies that comply with the requirement of this criterion.

Analyst Remarks to Response:

In response to the staff's draft analysis the agency reports that it will revise its polices to include the requirements of this section to share information regarding its accredited institution's status and any adverse action against its accredited institutions with state agencies and other accrediting agencies. The agency expects the policy to be added to its policy manual at the Board's June 2011. The agency also reports that it has not had an instance when has had to apply this requirement.

Staff Determination: The agency does not meet the requirements of this section. The agency must provide its policies that require it to share information regarding the accreditation status and information regarding the adverse actions it has taken against an institution, upon the request of an accrediting or State approval agency for that information.

PART III: THIRD PARTY COMMENTS

The Department did not receive any written third-party comments regarding this agency.